

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J. by her next friend and mother, HEATHER JACKSON,

Plaintiff,

v.

WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY BOARD
OF EDUCATION, WEST VIRGINIA
SECONDARY SCHOOL ACTIVITIES
COMMISSION, W. CLAYTON BURCH in his
official capacity as State Superintendent, DORA
STUTLER in her official capacity as Harrison
County Superintendent, and THE STATE OF
WEST VIRGINIA,

Defendants,

and

LAINEY ARMISTEAD,

Defendant-Intervenor.

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

JOINT MOTION FOR EXTENSION OF FILING DEADLINE

Plaintiff, Defendants, and Defendant-Intervenor, by counsel, now come and jointly move that the Court issue an order extending the deadline for filing replies to Motions in Limine. The parties state the following:

(1) Motions in limine were filed on June 22, 2022, as required by the Scheduling Order [ECF 93].

(2) Responses to those motions in limine were filed on June 29, 2022, also as required by the Scheduling Order [ECF 93].

(3) As the Scheduling Order did not set a deadline for replies, the parties understand the present deadline for filing replies to be Wednesday, July 6, 2022.

(4) In light of the rescheduling of trial in this matter, it would be reasonable to allow a brief extension of the deadline for filing replies.

(5) The parties have conferred and agree that a brief extension of the reply deadline to Monday, July 11, 2022, would be in the best interests of all parties in completing the briefing on motions in limine

(6) This 3-business day extension would not disturb any other pending deadlines in light of the aforementioned rescheduling of the trial date to January 2023.

For these reasons, the parties request that the Court grant this Motion.

Dated: July 1, 2022

Joshua Block*
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad St.
New York, NY 10004
Phone: (212) 549-2569
jblock@aclu.org

Avatara Smith-Carrington*
LAMBDA LEGAL
3500 Oak Lawn Avenue, Suite 500
Dallas, TX 75219
Phone: (214) 219-8585
asmithcarrington@lambdalegal.org

Carl Charles*
Tara Borelli*
LAMBDA LEGAL
158 West Ponce De Leon Ave., Ste. 105
Decatur, GA 30030
Phone: (404) 897-1880

ccharles@lambdalegal.org
tborelli@lambdalegal.org

Sruti Swaminathan*
LAMBDA LEGAL
120 Wall Street, 19th Floor
New York, NY 10005
Phone: (212) 809-8585
sswaminathan@lambdalegal.org

Respectfully Submitted,
/s/ Andrew Barr

Loree Stark (Bar No. 12936)
Nick Ward (Bar No. 13703)
AMERICAN CIVIL LIBERTIES UNION OF
WEST
VIRGINIA FOUNDATION
P.O. Box 3952
Charleston, WV 25339-3952
Phone: (914) 393-4614
lstark@acluwv.org
nward@acluwv.org
Kathleen Hartnett*
Julie Veroff*
Zoë Helstrom*
COOLEY LLP
3 Embarcadero Center, 20th Floor
San Francisco, CA 94111
Phone: (415) 693-2000
khartnett@cooley.com
jveroff@cooley.com
zhelstrom@cooley.com

Katelyn Kang*
Valeria Pelet del Toro*
COOLEY LLP
55 Hudson Yards
New York, NY 10001-2157
Phone: (212) 479-6000
kkang@cooley.com
vpeletdeltoro@cooley.com

Elizabeth Reinhardt*

Andrew Barr*
COOLEY LLP
1144 15th St. Suite 2300
Denver, CO 80202-5686
Phone: (720) 566-4000
abarr@cooley.com

COOLEY LLP
500 Boylston Street, 14th Floor
Boston, MA 02116-3736
Phone: (617) 937-2305
ereinhardt@cooley.com

**Visiting Attorneys*

Attorneys for Plaintiff

Dated: July 1, 2022

Respectfully Submitted,

PATRICK MORRISEY
West Virginia Attorney General

/s/ Curtis R. A. Capehart

Douglas P. Buffington II (WV Bar # 8157)

Chief Deputy Attorney General

Curtis R.A. Capehart (WV Bar # 9876)

Deputy Attorney General

David C. Tryon (WV Bar #14145)

Deputy Solicitor General

Office Of The West Virginia Attorney General

State Capitol Complex

1900 Kanawha Blvd. E, Building 1, Room E26

Charleston, WV 25305-0220

Telephone: (304) 558-2021

Facsimile: (304) 558-0140

Email: Curtis.R.A.Capehart@wvago.gov

Counsel for Defendant, State of West Virginia

Dated: July 1, 2022

Respectfully submitted,

WEST VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION,
By Counsel,

/s/ Roberta F. Green

Roberta F. Green (WVSB #6598)

Kimberly M. Bandy (WVSB #10081)

Shannon M. Rogers (WVSB # 13920)

SHUMAN MCCUSKEY SLICER PLLC

Post Office Box 3953 (25339)

1411 Virginia Street East, Suite 200 (25301)

Charleston, WV 25339

(304) 345-1400

(304) 343-1826 FAX

Counsel for Defendant, WVSSAC

Dated: July 1, 2022

Respectfully submitted,

WEST VIRGINIA STATE BOARD OF
EDUCATION and W. CLAYTON BURCH
By Counsel,

s/ Kelly C. Morgan

Kelly C. Morgan (WV Bar #9519)
Kristen V. Hammond (WV Bar #9727)
Michael W. Taylor (WV Bar #11715)
Bailey & Wyant, PLLC
500 Virginia Street, East, Suite 600
P.O. Box 3710
Charleston, WV 25337-3710
Telephone: 304.345.4222
Facsimile: 304.343.3133
kmorgan@baileywyant.com
khammond@baileywyant.com
mtaylor@baileywyant.com

Counsel for Defendant, WVBOE

Dated: July 1, 2022

Respectfully submitted,

HARRISON COUNTY BOARD OF
EDUCATION AND DORA STUTLER
By Counsel,

s/ Susan L. Deniker

Susan L. Deniker (WV Bar #7992)
Jeffrey M. Cropp
Steptoe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, WV 26330-450
Telephone: 304.933-8000
susan.deniker@steptoe-johnson.com

Counsel for Defendant, HCBOE

Dated: July 1, 2022

Tyson C. Langhofer, VA Bar No. 95204*
Rachel A. Csutoros, MA Bar No. 706225*
Alliance Defending Freedom
44180 Riverside Parkway
Lansdowne, VA 20176
(571) 707-2119
(571) 707-4790 Fax
tlanghofer@adflegal.org
rcsutoros@adflegal.org

Travis C. Barham, GA Bar No. 753251*
Alliance Defending Freedom
1000 Hurricane Shoals Road NE, Ste D-1100
Lawrenceville, GA 30043
(770) 339-0774
(770) 339-0774 Fax
tbarham@adflegal.org

Timothy D. Ducar, AZ Bar No. 015307*
Law Offices of Timothy D. Ducar, PLC
7430 E. Butherus Drive, Suite E
Scottsdale, AZ 85260
(480) 502-2119
(480) 452-0900 Fax
tducar@azlawyers.com

Respectfully Submitted,
/s/ Brandon S. Steele
Brandon Steele, WV Bar No. 12423
Joshua D. Brown, WV Bar No. 12652
The Law Offices of Brandon S. Steele
3049 Robert C. Byrd Drive, Suite 100
Beckley, WV 25801
(304) 253-1230
(304) 255-1520 Fax
bsteelelawoffice@gmail.com
joshua_brown05@hotmail.com

Jonathan Scruggs, AZ Bar No. 030505*
Roger G. Brooks, NC Bar No. 16317*
Henry W. Frampton, IV, SC Bar No. 75314*
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 Fax
jscruggs@adflegal.org
rbrooks@adflegal.org
hframpton@adflegal.org

Christiana Holcomb, DC Bar No. 176922*
Alliance Defending Freedom
440 First Street NW, Suite 600
Washington, DC 20001
(202) 393-8690
(202) 347-3622 Fax
cholcomb@adflegal.org

**Visiting Attorneys
Attorneys for Defendant-Intervenor*

DATE: July 1, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J. by her next friend and mother, HEATHER JACKSON,

Plaintiff,

v.

WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY BOARD
OF EDUCATION, WEST VIRGINIA
SECONDARY SCHOOL ACTIVITIES
COMMISSION, W. CLAYTON BURCH in his
official capacity as State Superintendent, DORA
STUTLER in her official capacity as Harrison
County Superintendent, and THE STATE OF
WEST VIRGINIA,

Defendants,

and

LAINY ARMISTEAD,

Defendant-Intervenor.

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

CERTIFICATE OF SERVICE

I hereby certify that, on this 1st Day of July, 2022, I electronically filed the foregoing with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart

Curtis R. A. Capehart